

JURISPRUDENCE AND PRINCIPLES OF LEGISLATION

Time Allowed : 3 Hours

Full Marks : 100

If the questions attempted are in excess of the prescribed number, only the questions attempted first up to the prescribed number shall be valued and the remaining ones ignored.

Answers may be written either in English or in Bengali but all answers must be in one and the same language.

Answer any Five Questions taking at least Two Questions from each Group.

GROUP-A

1. Law is a normative science; law norms are "ought" norms — In the light of this statement state the implications of Hans Kelsen's pure theory of law and point out the criticism of this theory. 20
2. a) Discuss the contribution of Rosco Pound in explaining functional aspect of law. 10
b) State in brief certain criticism against Rosco Pound's theory. 10
3. a) Write a critical note on possession. 10
b) Explain various classes of ownership with suitable illustrations. 10
4. a) Discuss about various theories of punishment applied in administration of Criminal justice. 10
b) Write a note on "contemporary approach of Capital punishment". 10

GROUP-B

5. Discuss the importance of legislation as a source of law. 20
6. a) Discuss the "Will Theory" and "Interest Theory" of legal right. 10
b) Rights and duties are correlative — In the light of this statement discuss the relationship between rights and duties. 10
7. Discuss in detail the jurisprudential aspect of Corporate personality. 20
8. Write notes on : 20
 - a) Concept of "sovereignty".
 - b) Ratio decidendi and obiter dictum.
 - c) Legal person.
 - d) Custom and usage.

5x4

**PRINCIPLES OF EQUITY INCLUDING LAW OF TRUST
AND SPECIFIC RELIEF**

Time Allowed : 3 Hours

Full Marks : 100

Answers may be written either in English or
in Bengali but all answers must be in one
and the same language.

GROUP-A1. Answer the followings :

- a) What is "floating equities" ?
- b) What was the main object of the Judicature Act, 1873 ?
- c) When delay would be fatal to a claim for equitable relief ?
- d) Doctrine of Precatory Trust and the doctrine of Satisfaction are founded on which maxims of equity ? State the maxims.
- e) Is a Judgement-debt an actionable Claim ? Answer with reasons.
- f) Is the ordinary law of acquisition of title by adverse possession affected by the requirements of the Indian Trusts Act, 1882 ? Answer with reasons.
- g) What is 'Tacking' ? Does the doctrine extend to India ?
- h) What are the similarities between the Concepts of a Trust and a Charge ?
- i) When a mortgagee may become a Trustee in relation to a mortgage ?
- j) When a legal estate loses priority ?

2x10

2. a) Who is a 'Trustee de son tort' ?
- b) How he may assume that position ?
- c) Differentiate between a 'Trustee de son tort' and an obligor.
- d) X, a trustee for Y, allows the trust to be executed solely by his Co-trustee Z. Z misapplied the trust property. Is X personally answerable for the loss resulted to Y ?

3+4+4+4

3. a) Discuss the nature of the rights of Trustees and beneficiary in the Trust property.
- b) Bring out the points of distinction between charitable and purpose Trust.
- c) Is a trust distinguishable from a Contract ? explain.

5

5

5

GROUP-B

4. a) Explain the maxim "once a mortgage always a mortgage" and its applications.
- b) What does the doctrine of "clogging the equity" imply ?
- c) Can a mortgagee stipulate for a Collateral benefit or advantage to endure beyond redemption ? explain.
- d) A mortgages both his estates Q and R to B and afterwards mortgages R only to C. How can B realise his debts ? Answer indicating the principles involved.

5x4

P.T.O.

5. a) Bringout the differences between legal and equitable estate.
- b) Discuss the principles upon which the doctrine of Election is based.
- c) To what extent Indian Law differs from English law on the application of the doctrine of Election ?

5x3

6. Answer any Three of the following :

- a) In what ways specific relief is provided by the specific relief Act, 1963 ? Indicate the provisions also.
- b) What are the defences available in a suit for specific performance ? Indicate the relevant provisions also.
- c) What are the circumstances under which a part of a Contract is enforceable under the Specific Relief Act, 1963 ?
- d) The Collector of Allahabad under the order of the Government, forcibly dispossessed A from his house in juridical possession. Can he recover possession ? What would be the position if A was dispossessed by a private person ?

5x3

HINDU LAW

Time Allowed : 3 Hours

Full Marks : 100

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SEPARATE ANSWER BOOKS TO BE USED FOR GROUP-A & GROUP-B

(In case a candidate writes answer to questions on Group-B in the answer book meant for Group-A and Vice-Versa, such answer will not be evaluated).

GROUP-A

Answer Question No.1 and any TWO from the rest.

1. a) Explain the various sources of Hindu Law with special reference case law.
- b) Define Customs ? What are the essentials of a valid Custom under Hindu Law ? 12+8
2. a) Discuss the Grounds for matrimonial reliefs available to the parties under Hindu Marriage Act, 1955 ?
- b) What are the differences between Judicial Separation under Hindu Marriage Act, 1955 and Special Marriage Act, 1954 ? 10+5
3. Distinguish between :
 - a) Restitution of Conjugal Rights and Judicial Separation under Hindu Marriage Act, 1955 ?
 - b) Void Marriages and Voidable Marriages under Hindu Marriage Act, 1955 ? 8+7
4. a) Explain the terms 'Escheat' and 'Testamentary Succession' according to the Hindu Succession Act, 1956 ?
- b) Explain - 'Right of Child in the Womb' and 'Murderer disqualified' but 'Disease, defect, etc not to disqualified according to the Hindu Succession Act, 1956 ? 5+10

GROUP-B

Answer Question No.5 and any TWO from the rest.

5. Write Short Notes on any Four:-
 - a) Ceremonies for a Hindu Marriage.
 - b) Conditions for a Valid Hindu Marriage.
 - c) Factum Valet.
 - d) Legitimacy of children of void and voidable Marriages.
 - e) Agnates, Cognates and Uterine blood, Half blood. 5x4
6. a) Discuss the capacity of a male Hindu and a female Hindu to take Adoption under the Hindu Adoptions and Maintenance Act, 1956 ?
- b) Discuss who are the persons capable for giving in adoption and who are the persons who may be adopted and what are the other valid conditions for a valid adoption under the Hindu Adoptions and Maintenance Act, 1956. 5+10

P.T.O.

7. a) Discuss the 'Maintenance of widowed daughter in Law' under Hindu Adoption and Maintenance Act, 1956 ?
b) Discuss the Maintenance of Children and aged parents which includes a Childless step mother ? 5+10
8. a) Claimant to maintenance should be a Hindu mention the Section ? Who are dependants, mention the Section for the amount and maintenance of dependents ?
b) What are the Effects of adoption and Discuss the right of adoptive parents to dispose of their properties ? 5+10
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2018

MUHAMMEDAN LAW

Time Allowed : 3 Hours

Full Marks : 100

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but all answers must be in one and the same language.

SEPARATE ANSWER BOOKS SHOULD BE USED FOR GROUP-A AND GROUP-B

(In case a candidate writes answer to questions on Group-B
in the answer book meant for Group-A and Vice-Versa, such
answers will not be evaluated)

GROUP - A

Answer all questions

1. Answer the following :-

- (a) Point out the origin of Muhammedan Law.
- (b) What is ijma and is it changeable Phenomena ?
- (c) Does Shariat Act, 1937 applicable to Agricultural Land and mention its time of application.
- (d) Explain Affinity for the purpose of marriage.
- (e) Does Preamption arise if the property is sold by the Court ?
- (f) What is the age of majority of a muslim woman for making 'will' under Muhammedan Law ?
- (g) Point out the lawful guardians for the purpose of marriage in the respective order.
- (h) What is ijtihaad ?

24/2 x 8

2. (a) What are the effects of Fasid marriage ?

5

- (b) The wife was five months pregnant at the time of marriage and a child was born four months after the marriage. What will be the fate of the marriage if the husband knew from before the marriage that his wife was pregnant and if the husband did not know this at the time of marriage ?

3

- (c) If any marriage is held fullfilling all the essential conditions of marriage under Muhammedan Law but no ceremony is there. Is the marriage valid ?

2

3. (a) Explain Dower. Does it differ from dowry as prevalent in the Indian Society ?

6

- (b) Can the husband appropriate the movable property which was acquired by the wife as dower without the consent of the wife ?

4

4. (a) Explain Talak-ahsan and Talak-hasan.

6

- (b) Is remarriage of divorced couple possible ?

4

GROUP - B

Answer all questions

5. Answer the following :-

- (a) How far Spes Successionis is recognised under Muhammedan Law ?
- (b) What do you mean by Rule Primogeniture ?
- (c) What do you mean by lineal ascendants ?
- (d) Who is entitled to the custody of minor married girl ?

P. T. O.

- (e) What is Zihar ?
- (f) What do you mean by Legitimacy and Legitimation ?
- (g) What do you mean by vested inheritance ?
- (h) Explain Hizanat. 2 1/2 x 8
6. (a) Define 'Hiba' under Muhammedan Law. 5
- (b) A Muslim woman makes a hiba depriving her minor children of her entire property to Al-Ameen Mission. Discuss the validity of the 'hiba'. 3
- (c) Can a muslim who has attained puberty under Muhammedan Law make any gift to a non muslim ? 2
7. (a) Can a 'will' be made orally under Muhammedan Law ? 3
- (b) Whether the very word 'will' is essential to make will under Muhammedan Law. 2
- (c) A muslim makes a will of the property valued at Rs.80,000/- to a stranger. He died issueless leaving behind his wife and incurring a loan of Rs.5,000/-. Discuss the validity of the will. 5
8. (a) Can a Wakf be created for 99 years ? 2
- (b) Can a Wakf be revoked by the creator of the Wakf once it is created intervivos ? 2
- (c) Explain the 'Doctrine of Cypres' in relation to the Wakf. 4
- (d) A muslim created a Wakf of 'musha' of property for burial ground. Discuss the validity of the Wakf. 2

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2018

THE INDIAN CONSTITUTION AND CONSTITUTIONAL LAW

Time Allowed : 3 Hours

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GROUP - A

Answer any two of the following questions :-

1. Explain the concept equal opportunity and elaborate the doctrine "protective discrimination" with special reference to Articles 15 and 16 of the Constitution of India. 20
2. "The judicial review of a proclamation under Article 356 of the Constitution of India would lie on any of the grounds upon which any executive determination which is found on subjective satisfaction can be questionable" - D.D. Basu.
In the light of the above statement discuss the scope and ambit of the power of judicial review under Article 356 of the Constitution. 20
3. Write a critical note on the right to freedom of religion under Articles 25 to 28 of the Constitution of India. 20

GROUP - B

Answer all the questions

4. (a) Discuss the concept "minorities" under the Constitution of India.
(b) What are the rights of minorities have been recognised under Article 30 of the Constitution of India ? Citing judicial decision discuss the nature and ambit of minorities rights. 5 + 10
5. (a) Discuss the President's election procedure.
(b) Discuss the powers and functions of the President. 5 + 10
6. Discuss the circumstances under which various types of writs can be issued under Article 226 of the Constitution of India. 15
7. Write notes on any three of the following :-
(a) Secularism
(b) Utility of the preamble to the Constitution of India
(c) Rights to property
(d) Government liability in Tort under Article 300 of the Constitution. 5 x 3

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2018

INDIAN LAW RELATING TO COMPANIES AND INSURANCE

Time Allowed : 3 Hours

Full Marks : 100

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GROUP - AAnswer Question No.1 and any two from the rest

1. "An incorporated company is created by Act only and extinguished by the Act also" - Discuss with reference to the incorporation of the company and its dissolution. 20
2. (a) A private Company is registered with a share capital of Rs.5,00,000 divided into 5000 shares of Rs.100 each. Of these shares 4998 is held by 'K' and two by his brother. Discuss the form and characteristics of the company in the light of Companies Act, 2013. 10
- (b) Baron Steel Manufacturing Ltd. in course of its business entered into a contract with another company to supply jute bags worth Rs.50 lakhs within six months from the date of contract. The materials were supplied within the time by the company according to terms and conditions of the contract. Subsequently it was found that the nature of business was not within the object clause of the Company and the shareholders subsequently ratified the contract. Board of Directors took the decision not to pay the amount. Shareholders initiated the process of removal of all the Directors. Advise the Directors. 5
- (c) The Board of Directors of the company borrowed Rs.50 lakhs shareholders from a financial institution for the company of which the shareholders were aware. Subsequently it was found that although the company has the power to borrow the money but the directors did not have the power. Discuss the legality of the transaction. Can the irregularity if any, be cured by obtaining consent of the shareholders by a resolution ? 5
3. (a) "Every outsider dealing with the company is deemed to have notice of the contents of the Memorandum and Article of the Association"- Discuss with reference to doctrine of constructive notice. 10
- (b) "The Directors of the company issued a bond to X. They had the power under the Article of association to issue such bond provided they were authorised by resolution passed by the shareholders at the general meeting of the company. No such required resolution was passed by the company".
Is X entitled to recover the amount from the company ? Give answer with reference to limitations on constructive notice and Turquand Rule with its exceptions. 10
4. Write short notes on any four of the following :-
 - (a) Holding company and subsidiary company
 - (b) Certificate of commencement of business
 - (c) Dormant company
 - (d) Red herring prospectus
 - (e) Circumstances prohibiting buy back of shares
 - (f) Winding up of company and its modes.

5 x 4

P. T. O.

GROUP - B

Answer any two questions

5. (a) The Life Insurance Corporation floated a "Salary Savings Scheme" under which X an employee of the Y company took an insurance policy for an amount of Rs.1 lakh with the Life Insurance Corporation. The amount of the premium used to be deducted by the Y company from the salary of X and remitted by it to the Life Insurance Corporation. The scheme of collection and remittance to the LIC were made known to the employees by the Company by a circular. During the subsistence of policy, premium for some months were deducted by the Y company from the salary of X but was not remitted to the Life Insurance Corporation.

In the meantime Y died and his wife informed the Life Insurance Corporation of the death of her husband and requested for payment of the amount due under the policy. The Life Insurance Corporation disclaimed any liability for payment under the policy as the installments of premium after June 1992, were not received by it and therefore, repudiated the claim of widow of the deceased. Was LIC legally justified in repudiating claim? Explain in the background of relevant principles of law.

- (b) A Life Insurance is not a contract of Indemnity. - Discuss. 10
6. (a) Discuss critically the legal importance of Utmost Good Faith and Non-Disclosure in the contract of insurance. 10
- (b) "Subrogation is substitution for one person for another". Discuss the role of the principle in the contract of insurance. 10
7. (a) "In the contract of marine insurance, the risk of adventure of assured is insured but not the property which is exposed to risk or peril". Discuss. 10
- (b) What are the essential conditions of contract of Marine Insurance ? 5
- (c) Define the term 'perils of the sea' with illustration. 5
8. Write short notes on any four of the following :-
- (a) Double insurance and reinsurance
- (b) Essentials of Contract of Insurance
- (c) Proximate clause
- (d) Effect of renewal of a Fake driving License
- (e) 'Seaworthiness' of the ship under Marine Insurance. 5 x 4

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2018

PARTNERSHIP ACT

Time Allowed : 3 Hours

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SEPARATE ANSWER BOOKS TO BE USED FOR GROUP-A AND GROUP-B

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GROUP - A

Answer all questions

1. Although registration of firm is not compulsory, firms are usually registered - Discuss the above statement with reference to disadvantages of non registration of a firm under the law of partnership. 20
2. (a) Distinguish between Partnership and a joint Hindu family firm. 10
- (b) X and Y are friends. They decide to buy 1000 bags of sand ~~which~~ which they agree to sell on their joint account. What is the relationship in between X and Y ? 5
3. (a) How can you determine the test of true Partnership ? 10
- (b) What is Partnership property ? For what purpose can it be used ? $2\frac{1}{2} + 2\frac{1}{2}$

GROUP - BAnswer Question No.4 and any two from the rest

4. (a) What are rights and liabilities of a minor who has been admitted to the benefits of a partnership ? 10
- (b) What are the mutual rights and liabilities of Partners ? 10
- 5(a) State the mode of settlement of accounts between partners after dissolution of the firm. 10
- (b) A, B & C are three partners in a firm their capital contributions are A-Rs.10,000, B - Rs.5,000, C - Rs.1,000. They share profits equally, upon dissolution it is found that realisable asset are Rs.20,000 and debt payable Rs.13,000.
— Discuss the settlement of accounts by the Partners. 5
6. (a) State the rights regarding an outgoing partner -
(i) to carry on competing business
(ii) to share in the subsequent profit. 5 + 5
- (b) Galaxy & Co. is a newly constituted partnership firm and commenced business without registration. Mr. Aayan is a Creditor and Mr. Dhayan is a Debtor. Discuss the rights of -
(i) Galaxy & Co. against the Creditor Mr. Aayan
(ii) Galaxy & Co. against their debtor Mr. Dhayan. 5

P. T. O.

-: 2 :-

- 7.(a) State the rights of buyer and seller of Goodwill.
- (b) When can a partnership be dissolved by operation of law ?
- (c) Mr. Donglas one of the partners of X and Co. has caused loss to the firm. Discuss Mr. Donglas's responsibility as per the Partnership Act. 5 + 5 + 5

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LAW OF LIMITATION AND LAW OF PRESCRIPTION

Time Allowed : 3 Hours

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GROUP-A

Answer Question No.1 and any TWO from the rest.

1. "The law of limitation bars the remedy but does not destroy the right". Comment. 20
2. What remedy does the Limitation Act, 1963, provide when period of limitation prescribed for a suit expired on a day when the Court is closed ? 20
3. What is the law of limitation regarding suits against express trustee and their legal representatives ? 20
4. a) What is the effect of acknowledgement of liability on period of limitation ? 15
- b) X sold and delivered goods to Y on 1st January, 2015. He files a suit for the recovery of price on 10th January, 2018 and prays for condonation of delay in filing the suit beyond the period of limitation. Can the Court condone the delay ? 5

GROUP B

Answer any TWO Questions :

5. a) Define easement. 5+15
- b) Discuss how easements are acquired by prescription.
6. a) What are the functions of the law of prescription ? What are the types of prescription ? 12+8
- b) What are the essentials of adverse possession ?
7. Distinguish between :- 10+10
- a) Limitation and prescription.
- b) Limitation and laches.